

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
JUNE 26, 2014**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Jeffrey Cohen, Vice Chair; Carol Amick, Clerk; Jeffrey Dearing; Todd Crowley; Michelle Puntillo; Arthur Smith

ABSENT: Kay Hamilton

Mr. Colasante introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and assistant introduced themselves.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #038-14 – The Well Effect, at 186 Great Road, seeks a Special Permit per Article 39.4 Section 3(Q) of the Sign By-Law to allow movable freestanding sign.

John Jamesapollos, owner and manager of the Well Effect, introduced himself and explained that he proposed a movable freestanding sign for his business at 186 Great Road. He said that the application packet shows the type of colors and lettering that would be on the sign at any given time, and he added that the sign itself would comply to the size regulations set forth in the Sign Bylaw. He noted that he felt this sign would add extra visibility to his business, and he therefore felt it was important.

There was conversation about the aesthetics of the sign. Mr. Jamesapollos had brought in the type of movable sign he wanted to use, and he showed it to the Board. The ZBA members agreed that it was an acceptable style and size and met the criteria of the Sign Bylaw.

Mr. Jamesapollos said he was under the impression that a business could have two movable signs. Mr. Cohen said that was not the case; he noted that the Sign By-Law had a new provision that it was only in effect for signs that could be visible from the street or an adjacent public way, but this sign was clearly visible from the street, so it did not apply.

Ms. Puntillo asked whether the applicant felt he needed this extra sign, given that all the signs on the building were prominent. Mr. Jamesapollos replied that the Well Effect was still a fairly unknown quantity to the residents of Bedford, and he felt this sign would help a great deal in announcing the presence of the business and also communicating the kind of business that it is.

Ms. Amick commended the applicant for going through this process. She said she had seen several illegal movable signs around Town and appreciated that Mr. Jamesapollos went through the correct channels to get the sign approved.

Mr. Colasante opened the hearing to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante said he agreed with Ms. Amick that he appreciated the applicant came before the Board and went about getting this sign approved in the proper way. He said he liked to see Bedford businesses given the best possible advantage to succeed, and this sign would help with that.

Mr. Cohen agreed, noting that he felt this sign met the conditions of a Special Permit, in that it was in keeping with the intent and purpose of the Bylaw and was not injurious or detrimental to the neighborhood. Ms. Amick and Mr. Crowley agreed.

There was discussion of the conditions that would be placed on the motion.
Mr. Jamesapollos said he was comfortable with all of the proposed conditions.

MOTION:

Ms. Amick moved to grant to The Well Effect, at 186 Great Road, a Special Permit per Article 39.4 Section 3(Q) of the Sign By-Law to allow movable freestanding sign, substantially as shown on Exhibit 1 (example picture of sign wording, with dark naval orange color), Exhibit 2 (photograph of sign structure), and Exhibit 3 (location plan), subject to the following conditions:

1. Only one freestanding sign is permitted per business.
2. Only one freestanding sign is permitted to be displayed on the grass strip adjacent to the street in front of the business, and shall be placed so as not to block the view of vehicles entering and exiting the property.
3. In the event that the Sign Bylaw requirements for movable freestanding signs become more restrictive in the future, this movable freestanding sign shall be brought into compliance with the most recent edition of the Bylaw immediately upon its enactment.
4. The Special Permit shall run with the particular business, not the property where the business is located.

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Cohen, Amick, and Crowley

Voting against: None

Abstained: Puntillo

The motion carried, 4-0-1.

Mr. Colasante explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, barring any appeals, the applicant may apply for a Sign Permit at the Code Enforcement Department.

The applicant thanked the Board members for their time.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #036-14 – Pamela Brown, Esq., for 127 North Road, seeks a Special Permit per Sections 7.1.2, 7.1.4, and 4.2.2.1 of the Zoning Bylaw to demolish dwelling with barn and construct new two-family home.

Mr. Smith said that, in the interest of full disclosure, he wanted the Board and the audience to know that he had assisted Jean Balfour, the owner of this property, during her application process to the Historic Preservation Commission (HPC). He said he received no compensation for this and was not a voting member on this quorum, but he wanted it known at the outset. Mr. Colasante thanked him for being up front with this information.

Ms. Brown greeted the Board and stated that she was representing Ms. Balfour. Ms. Brown said that the request before the Board tonight was to allow the demolition of the existing house and barn which would then be replaced with a new two-family home. She said that the current structure was assessed as a two-family and had been used as such for many years, but it did not appear from the Building Department records that the house was ever legally converted to be a two-family dwelling. She added that the Historic Preservation Commission (HPC) had reviewed the application and had determined that the house was not significant enough to be preferably preserved.

Mr. Colasante asked whether the house could be demolished and rebuilt as a two-family if it were not currently considered a two-family. Ms. Brown said it could not, which is why they hoped to have the Board determine that it was a two-family tonight so that, as they moved forward, it would be considered as such for the demolition and rebuilding. She noted that Section 4.2.2.1 of the Zoning Bylaw allows the conversion of a single family dwelling in existence on March 1, 1945 to be converted to accommodate two families, provided that:

- “(a) Each dwelling unit shall have a minimum gross floor area of 800 square feet;*
- (b) No exterior changes are made which, in the judgment of the Board, do not conform to the single-family character of the neighborhood.”*

Ms. Brown noted that the mention of the “Board” in the above section of the Bylaw indicated that the ZBA must be the party to make the determination about the conversion, and this house at 127 North Road did meet both requirements.

There was extensive discussion about the type of relief the Board could or should grant to allow this house to be considered a two-family.

There was conversation about the history of the house and how long it had been used as a two-family home. Ms. Brown said that it had been used as a two family dwelling for at least twenty years, even if it was never officially recorded as such.

The Board conversed with Ms. Brown about the aesthetics and setbacks of the proposed new two-family structure. Ms. Brown noted that the proposed home would meet all of the required setbacks, thereby bringing the lot more into conformity than it was currently. She talked more about the character of the neighborhood and the placement of the house on the lot. Mr. Crowley asked whether the easement on the lot or adjacent driveway could ever be used. Ms. Brown replied that Lane Farm owned the easement.

Mr. Colasante pointed out that the Board did not have a floor plan proving that each dwelling unit was at least 800 feet. Mr. Smith said that he lived in this house for several years and could state unequivocally that each unit was at least 800 square feet. There was more dialogue about the size and dimensions of the house.

Mr. Colasante opened the hearing to the public.

William Delaney, a trustee from Lane Farm and a resident at 12 Lane Farm Drive, said that his main concern had been the structural setback from the easement line, but he felt more comfortable when he found out that the new house would be 15 feet away. He noted that the trustees had talked some time ago about the possibility of allowing driveway access off Lane Farm, but they were ultimately against it.

Camilla Warrender introduced herself and explained that she currently rented the carriage house behind the property at 127 North Road. She said that Ms. Balfour had promised that she would be able to continue to live there for some time and to allow her grand piano to stay on the premises, but now this discussion about the demolition of the structure has come up and she worried that she would not have enough time to find a new location that could house her piano, which she needed to give lessons. She asked whether the Board could somehow enforce a way for Ms. Balfour to give her reasonable notice of the timing of the upcoming project so that she would have the appropriate amount of time to find a new space for herself and the piano. Mr. Colasante explained that the only time frame the Board could consider was in regards to the issuance of permits and the appeal period leading up to it. He apologized that the Board could not help, but this sounded like a civil matter between two private parties and stated that the Board could only make its decision based on whether the application met the appropriate conditions of the Zoning Bylaw.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Cohen said that he was comfortable granting a Special Permit to officially convert the dwelling from a single family to a two family, as it will memorialize a use that had already been used unofficially for years. He said he was in favor of keeping a two family dwelling on the lot, whether it was the existing one or a new one, and he was comfortable with Mr. Smith's understanding of the size and nature of the house. He said he felt this would be in keeping with the conditions of a Special Permit, in that it was in keeping with the intent and purpose of the Bylaw and was not injurious or detrimental to the neighborhood.

Ms. Amick said that she felt granting this application was probably the correct thing to do, at least from a zoning perspective, but she was still bothered by the notion of tearing down a historic home in a historic neighborhood without even trying to reuse some of the existing materials.

Mr. Dearing said he fully supported this application, as he felt it was an improvement to move the structure into a conforming setback and also address the need for a diversity of housing styles in the neighborhood.

Mr. Crowley said that this application raised many questions in his mind, but he did feel comfortable allowing the legal conversion of a single family to a two family home.

MOTION:

Ms. Amick moved to grant to Pamela Brown, Esq., for 127 North Road, a Special Permit per Section 4.2.2.1 of the Zoning Bylaw to allow conversion of a single family dwelling to a two family dwelling.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Dearing, Crowley

Voting against: Amick

Abstained: None

The motion carried, 4-1-0.

Mr. Colasante explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #037-14 – Angela Valliere, for 142 & 142R Page Road, seeks a Variance from Section 6.2.2 or Table II: Dimensional Regulations of the Zoning Bylaw to allow substandard lots.

Ms. Valliere greeted the Board and introduced her attorney, Kenneth Leitner.

Mr. Leitner explained that the lots 142 and 142R Page Road were at one point a single 77,000 square foot lot with two houses on it. He said that, approximately two years ago, Ms. Valliere went to the Planning Board for an Approval Not Required (ANR) to split the lots, so that each house would have its own property. He said that this was approved and did give the applicant two separate parcels for the two houses, but it also resulted in a dimensional nonconformity under Table II: Dimensional Regulations of the Zoning Bylaw, because the lot at 142 Page Road now had insufficient lot size. He said they were present tonight, therefore, to request a Variance from Table II: Dimensional Regulations to allow that dimensional nonconformity to remain. He stressed that nothing would be added or changed at the property, and it would look no different than it did currently; this Variance would simply allow the lot at 142 Page Road to continue to exist with its nonconformity.

Mr. Colasante said it appeared that 142 Page Road had 30,001 square feet of lot area, which exceeded the 30,000 minimum lot size requirement required in a Residence B District. Mr. Leitner explained that this was because of a provision in the Zoning Bylaw under Section 6.2.2 that read as follows: "When the distance between any two points on lot lines is less than 50 feet, measured in a straight line, the smaller portion of the lot which is bounded by such straight line and such lot lines shall not be considered in computing the minimum lot area unless the distance along such lot lines between such two points is less than 150 feet." Mr. Leitner explained that approximately 4,000 square feet of land located in the rear southwest portion of 142 Page Road could not, then, be used to determine minimum lot size requirements, because the distance between two points of this portion of land was approximately 35 feet and the distance along such lot lines between such points was approximately 378 feet. This ultimately meant that the actual lot size as it related to Zoning compliance was approximately 26,000 square feet.

There was extensive discussion about the size and shape of the two lots, and the dimensions laid out on the plot plan.

Mr. Dearing asked why the Planning Board approved a plan that resulted in a violation of the Zoning Bylaw. Mr. Cohen explained that, for the Planning Board to approve an ANR, it only needed to ensure that the lot had appropriate frontage and accessibility. He said this was a problem on the State level, because it ultimately meant that the Planning Board could approve a lot that did not meet Zoning criteria.

Mr. Colasante opened the hearing to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante explained that a Variance had seven conditions, all of which the Board must find in the affirmative. He said that failure to meet any piece of the "Variance puzzle" meant that the Variance could not be granted.

A particular use must be sought. Mr. Colasante said that was the case here.

The use must be for one not requiring a Special Permit. Mr. Cohen stated that this clearly required a Variance.

Affects a particular parcel or existing building. Mr. Colasante agreed that that was also the case here.

Conditions affecting this parcel or building but not the whole district. Mr. Colasante said that was obvious here as well.

Project is without detriment to the public good. Mr. Colasante said that there would be no change to the aesthetics of the lot or house, so he felt that this requirement was met here.

No derogation from intent and purpose of the Bylaw or ordinance. Mr. Cohen said he thought this lot division was a *de minimis* derogation from the Bylaw. The other members agreed.

Substantial hardship, financial or otherwise. Mr. Colasante said he felt that the shape and topography of this lot created a hardship. Mr. Cohen agreed, noting that he felt there was a hardship here both in terms of the lot itself and the conflicting Bylaws that allowed a non-conforming lot to be approved.

Mr. Colasante called for a motion.

MOTION:

Ms. Amick moved to grant to Angela Valliere, for 142 & 142R Page Road, a Variance from Section 6.2.2 of the Zoning Bylaw to allow substandard lot, substantially as shown on Exhibit A (plot plan).

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds.

BUSINESS MEETING:

Continuation of Business Session: *Avalon at Bedford Center, 57 Concord Road, seeks a determination as to whether a new sign at the property is a significant change to the original Comprehensive Permit.*

Caitlin Marzano, the Community Manager of the Avalon site in Bedford, greeted the Board. She stated that, per the discussion at the Board's last business meeting, Avalon decided to move forward with a proposal for a 20 square foot sign. After further discussion about the size and aesthetics of the sign, Mr. Cohen said he felt this was an insubstantial change to the Comprehensive Permit. The other members agreed.

MOTION FOR FINDING:

Ms. Amick moved that the Board find that the proposed sign for Avalon Bay, built in conformance with Exhibit 1 as signed by the representative of Avalon, is an insubstantial change to original Comprehensive Permit.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Election of ZBA Officers

There was discussion about the election of new officers for the Board. Ms. Amick stated that the Town has always encouraged the transfer of Chairs and officers every year, but she felt it was better for this particular Board if there were continuity of the Chairperson for more than one year; therefore, she believed it would be best to reelect Mr. Colasante as Chair.

After further conversation about the election of officers, the following motions were made to nominate Chair, Vice Chair, and Clerk:

MOTION:

Ms. Amick moved to nominate Angelo Colasante to remain as Chair of the Bedford Zoning Board of Appeals.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, Crowley, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

MOTION:

Ms. Amick moved to nominate Todd Crowley to be Vice Chair of the Bedford Zoning Board of Appeals.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, Crowley, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

MOTION:

Mr. Cohen moved to nominate Ms. Amick to remain as Clerk of the Bedford Zoning Board of Appeals.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, Crowley, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

Meeting Minutes

Mr. Cohen asked whether the Board members had seen and agreed with his edits to the minutes. The other members agreed that they had. Mr. Colasante called for a motion to approve the minutes.

MOTION:

Ms. Amick moved to approve the minutes of the June 12, 2014 meeting, as amended.

Mr. Crowley seconded the motion.

Voting in favor: Cohen, Amick, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: Colasante and Smith

The motion carried, 5-0-2.

Adjournment

Mr. Smith moved to adjourn the meeting.

Ms. Amick seconded the motion.


Voting in favor: Colasante, Cohen, Amick, Dearing, Crowley, Puntillo, and Smith

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

The meeting adjourned at 10:15 PM.


Angelo Colasante, Chair

7-24-14
Date

Respectfully Submitted,

Scott Gould
ZBA Assistant